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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re RICHARD S., JR., a Person Coming
Under the Juvenile Court Law.

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

RICHARD S., SR. et al.,

Defendants and Respondent;

RICHARD S., JR.,

Appellant;

D053228

(Super. Ct. No. J516610)

APPEAL from an order of the Superior Court of San Diego County, Yvonne E.
Campos, Judge. Dismissed as moot.

Richard S., Jr., (the minor) appeals an order continuing reunification services to
the 18-month date for his parents, Richard S., Sr., and Adriana P. We dismiss the appeal
as moot.

FACTUAL AND PROCEDURAL BACKGROUND

On March 29, 2007, the San Diego County Health and Human Services Agency (the Agency) petitioned on the infant minor's behalf, alleging Richard and Adriana (together the parents) suffered from developmental disabilities that prevented them from providing adequate care for him. Both parents needed assistance in caring for themselves. Additionally, Adriana suffered from cerebral palsy and used a walker, Richard had difficulty managing his anger, and they had problems with hygiene. The court ordered the minor detained. Subsequently, it found the allegations of the petition true, declared the minor a dependent child of the juvenile court, placed him in foster care and ordered the parents to comply with services.

The parents received in-home services for their disabilities. Service providers from the San Diego County Regional Center had difficulty working with them because Richard resisted services and controlled Adriana. Both parents completed a parenting class. The psychologist who evaluated Richard said he was unrealistic about his own parenting abilities and in denial about Adriana's limitations. Testing showed he was very immature and had severely impaired judgment and marked impulsivity. He had little capacity for empathy. The psychologist who evaluated Adriana said, although Adriana was very emotionally attached to the minor and wished to care for him, her mental incapacity made her unable to care for a child and she was unlikely to benefit from 12 more months of services. In March 2008 the social worker reported Richard was attending therapy and his therapist opined he had made some progress. The parents'

service provider recommended they have 30 hours of services in their home each week in order to care for the minor.

After various continuances, the six-month hearing coincided with the 12-month hearing on May 16, 2008. At the hearing, the social worker opined Richards poor insight, bad judgment, impulsivity and control issues, combined with Adriana's cognitive disabilities, would place the minor at high risk in their care.

The court opined this case differed from most juvenile dependency cases because of the parents' disabilities. The court noted the challenges the parents faced and found they had made substantive progress. It stated: "And I do think that there is a substantial probability of return provided that extraordinary efforts are undertaken." The court ordered continuing services and set the matter for an 18-month hearing.

DISCUSSION

The minor contends the court erred in extending services to the 18-month date because the evidence did not support a finding of a substantial likelihood he could be safely returned to the parents with extended services. Although this may be true, the passage of time has rendered his appeal moot. When an appeal has become moot the reviewing court must dismiss the appeal. (*In re Ruby T.* (1986) 181 Cal.App.3d 1201, 1204.) At the hearing on May 16, 2008, during which the court extended services for an additional six months, the court set the 18-month hearing for October 3, 2008. That date has already passed and the parents have received six more months of services. Because this court cannot grant the relief the minor requests his appeal is moot.

In a similar case, *In re Pablo D.* (1998) 67 Cal.App.4th 759, the appellate court dismissed as moot the child's appeal of an order extending his parents' reunification services to the 18-month date because by the time the court issued an opinion the parents had already received six more months of services. (*Id.* at pp. 760-761.) We note, as did the court in *In re Pablo D.*, the better course here would have been for counsel to have sought traditional writ relief immediately following the 12-month hearing so that any error could have been taken care of in a timely manner. (*Id.* at p. 761.)

DISPOSITION

The appeal is dismissed as moot.

NARES, Acting P. J.

WE CONCUR:

McDONALD, J.

AARON, J.